The Pension Digest

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ALSO IN THIS ISSUE –

Collin W. Fritz and Associates, Inc.,
"The Pension Specialists"

Understanding the 2012 Withdrawal of IRA Contributions Made in 2011 (for 2011) — Special Notice to be Furnished Since the Income is Taxed on the 2011 Tax Return

March and April 2012 is when IRA custodians will have traditional and Roth IRA accountholders come into the bank to withdraw a contribution made in 2011 for tax year 2011. This article discusses these transactions and the related IRS reporting.

The IRA rules allow a person who has made a current year IRA contribution to withdraw that contribution along with the related income. The withdrawal of the related income is required. The IRS has furnished the calculation to determine this income, see page 3. From an income tax standpoint, the IRA contribution is basically treated as if it had never been made with two exceptions. First, the income will be taxed on the 2011 return since the law requires the income to be taxed in the year the contribution was made even though some of the income is earned in 2011 and some in 2012. Secondly, if the individual is younger than age 59½, he or she will need to pay the 10% additional tax on this income.

Example. Jane Marble, age 53, has had a traditional IRA with Third Bank since 1998. The fair market value balance of

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SEP Contributions for 2011 and 2012

A SEP-IRA is a traditional IRA to which SEP-IRA contributions have been made.

Personnel of IRA custodians/trustees many times have questions about contributions to SEPs. In any SEP-IRA contribution situation, it is very important to understand the type or types of contributions being made.

As discussed in the November 2011 newsletter, SEP-IRA contributions exceeded annual contributions on a percentage basis and on also on an amount basis for every year from 2004-2008 and presumably from 2009-2010. In general SEP-IRA contributions comprise 27.0% of all IRA contributions versus 24.9% for annual contributions and by amount SEP contributions are 14.8 billion versus 13.6 billion for annual contributions.

SEP-IRA contributions should be attractive deposits for a financial institutions. Establishing and administer SEPs are not that labor intensive or complex.

The maximum SEP-IRA contribution for 2011 is $49,000 and is $50,000 for 2012.

The 70½ no-contribution rule which applies to annual contributions does not apply to SEP-IRA contributions.

SEP-IRAs may be established by an employer by the business entity's tax filing deadline PLUS extensions. For self-employed individuals the tax filing deadline for 2011 is April 17, 2012. If the business has a valid tax extension, the

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2012 Withdrawal,
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her IRA as of January 1, 2011 was $52,500. On May 10, 2011 she contributed $6,000 for 2011. After making this contribution, the IRA's FMV was $59,300. It is now March 29, 2012. Her tax accountant, Emma, has told her that she should withdraw this amount as she will not be able to claim a tax deduction for any portion of the $6,000. Emma also tells Jane that she must take out the related income. The IRA's FMV as of March 29 is $60,050.

The worksheet on page 3 shows the income related to the $6,000 is $75.89. Jane withdraws $6,075.89 on March 29, 2012. This income of $75.89 is taxable on her 2011 federal income tax return. See the Special Explanation set forth on this page.

The IRS asks the IRA custodian (Third Bank) to furnish Jane Marble a special form explaining she is to include the $75.89 on her 2011 tax return. It will be January of 2013 when Third Bank furnishes her with her 2012 Form 1099-R, reporting the withdrawal of the $6,000 excess contribution and the related income of $75.89. The reason code to be inserted into box 7 will be PI. Since she is only age 53 she will owe the 10% penalty tax on the income of $75.89 or $7.59 (10% x $75.89).

How is this "earnings" calculation affected if the IRA custodian will charge a $30 fee to process the recharacterization and the IRA would pay this fee?

We understand the fee should be processed first. That is, the bank will withdraw $30 from the IRA. In essence, the fee is negative income. It impacts the FMV as of the moment of time immediately before withdrawing the excess (i.e. the adjusted closing balance). This total IRA income amount will now be $720 and not $750. The amount of income allocated to the $6,000 contribution will now be $72.85 and not the $75.89.

If it is now assumed that Jane Marble had a self-directed IRA, the IRA could have had a loss rather than earnings.

Current IRS rules allow a contribution (e.g. $6,000) to a self-directed IRA, which has incurred a loss, to have less than the $6,000 returned to the contributor. For example, assume the FMV of Jane's IRA as of March 29, 2012 had decreased to $57,500. The entire IRA had incurred a loss of $1,800. The amount of the loss attributable to the $6,000 contribution is $182.12. Therefore, Jane would withdraw $5,817.88. The 2012 Form 1099-R would show $5,817.88 in box 1, $0.00 in box 2a and a reason code P1 in box 7. ◆

Additional Discussion

The related or allocable income (or loss) for a nonrecharacterized contribution which is being withdrawn is the pro rata portion of the income (or loss) accrued by an IRA during the period the IRA held the contribution. This time period starts immediately prior to when the contribution being returned was made to the IRA and ends immediately prior to the withdrawal of the contribution.

The formula to be used is:

$$\boxed{\text{Net Income (loss) Attributable to Portion Withdrawn}} = \text{the contribution to be returned} \times \frac{\text{(adjusted closing balance - adjusted opening balance)}}{\text{adjusted opening balance}}$$

Definitions and Special Rules

1. The adjusted opening balance is the fair market value of the IRA at the beginning of the computation period (i.e. immediately prior to the time the particular contribution is made) plus the amount of any contributions (including transfer-in contributions, contributions which were distributed and returned as current-year contributions or contributions which were recharacterized) during the computation period.
2. The adjusted closing balance is the fair market value of the IRA at the end of the computation period (i.e. immediately prior to the withdrawal of a particular contribution) plus the amount of any distributions (including transfer-out distributions or recharacterization distributions) during the computation period.
3. If there has been more than one "regular" contribution made to the IRA, then a single computation period is used to determine their related or allocable income (or loss), and this computation period begins immediately prior to the time the first contribution being returned was contributed. A regular contribution is an IRA contribution made by the IRA owner that is neither a trustee-to-trustee transfer from another IRA nor a rollover from another IRA or pension plan.
4. There is also a last in, first-out rule for multiple contributions. Once the IRA accountholder identifies the dollar amount to be withdrawn, then the last contributions, to the extent necessary, will be deemed to have been withdrawn.
5. If the IRA accountholder has multiple IRAs, then the related income (or loss) calculation is made only with respect to the IRA containing the IRA contribution that is distributed as a returned contribution to the IRA accountholder. The actual withdrawal must come from this IRA.
6. When an IRA asset is not normally valued on a daily basis, the fair market value of the asset at the beginning of the computation period is deemed to be the most recent, regularly determined, fair market value of the asset, determined as of a date that coincides with or precedes the first day of the computation period.
7. The net income calculations will be based on the overall value of an IRA and the dollar amounts contributed, distributed or recharacterized to or from the IRA, and not on the basis of the return of specific assets.
8. The related or allocable income may now be a negative number.
9. Note: The amount of the income (or loss) may be reduced because an early withdrawal of interest or dividends penalty or other fees may apply.
10. Any fees assessed during the computation period will not be considered a distribution which needs to be added back to determine the adjusted closing balance. Any assessed fee will be considered negative earnings.

Special Explanation Regarding the Withdrawal of a 2011 "Current-Year" Traditional IRA Contribution

Custodian/Trustee: Third Bank

Accountholder's Name: Jane Marble

Social Security Number: ______________ **IRA Account Number:** ______________

IRA Type: **Traditional**

This form explains to you, the Accountholder, the complex rules for the withdrawal of a "current-year" contribution. A current-year contribution is one for which the tax deadline (plus extensions) has not yet passed. Thus, a contribution made at any time in 2011, for 2011, or between January 1, 2012, and April 17, 2012, for 2011 (during the carryback period) is considered a current-year contribution for 2011.

If you satisfy the following three (3) requirements, you will not be taxed on the withdrawal of a 2011 current-year contribution from your IRA.

1) You must withdraw the contribution by April 17, 2012, or such other date as is explained on the reverse side,

2) No deduction must have been allowed for the contribution for the tax year in question; and

3) Any interest or other income earned by the contribution must also be withdrawn. The interest or other income earned on this contribution must be included in your gross income for the year during which the contribution was made, and the 10% additional tax on a distribution prior to age 59½ must be paid, if applicable.

Accountholder's Instructions to Withdraw and Signature

✓ On 05/10/2011 (specify date) I contributed $6,000.00 to my IRA account for the 2011 tax year. On this date 03/29/2012, I hereby instruct you (the custodian/trustee) to withdraw $6,000.00 plus the related income of $75.89.

Signature of Accountholder ______________ Date ______________

**Special Explanation by Custodian/Trustee—
Because Action is Required by the Accountholder**

The IRS asks us as an IRA custodian to furnish a special notice when an IRA accountholder makes a current year contribution during one tax year and withdraws it during the following year before the applicable tax deadline. For example, you make a contribution for 2011 in 2011, but you withdraw it in 2012. This reason is – you must include this distribution and income on your 2011 tax return since you made the contribution in 2011, but you won't receive your related Form 1099-R until January of 2013 as the distribution occurs in 2012.

✓ On 03/29/2012 (specify date) we, as custodian/trustee of your IRA account, distributed to you, the accountholder, $6,075.89 of which $6,000.00 is the return of your contribution and $75.89 is the related income (i.e. earnings/interest).

You must reflect on your Federal income tax return all amounts distributed to you. However, you will reflect two amounts on your Federal income tax return: the gross amount and the taxable amount. We expressly recommend that you consult with your tax advisor or preparer, or that you review IRS Publication 590. The following paragraphs discuss the Federal income tax consequences.

You have withdrawn a 2011 current-year contribution. You must reflect this distribution and the income on the tax return for the year in which you made the contribution and not the year in which it was withdrawn, or for the tax year for which the contribution was made.

IRA #67 (3/12) White—Custodian/Trustee Yellow—Administrator

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Worksheet to Calculate the Income Related to the Withdrawal of a Current-Year Contribution(s)

ated to the
ution(s)

Custodian/Trustee Information

Name Third Bank
Address
City ____ State ____ Zip ____
Attn: ____ Phone ____

Accountholder

Name Jane Marble - Time Deposit Example
Home Address
City ____ State ____ Zip ____
County ____ Date of Birth 05/05/1959
SSN ____ Plan No. ____

IRA Account Information

Account Number ____
Type: ☑ Traditional ◯ Roth

Time Deposit | ***Self-Directed***

Purpose: This form is used to calculate the interest or other income earned with respect to a current-year contribution which is being withdrawn under Internal Revenue Code section 408(d)(4). The formula set forth in IRC Regulation 1.408-4(c)(1) is being used.

year contribution which is being withdrawn
s being used.

Date of Contribution(s) 05/10/2011

Amount of Contribution(s) $6,000.00

Date of Distribution 03/29/2012

			Time Deposit	Self-Directed
1. Amount of Current-Year Contribution(s) to be Withdrawn.		1.	$6,000.00	$6,000.00
2. Adjusted Closing Balance:				
a. FMV (immediately prior to withdrawal) (FMV = Principal + Interest + Accrued Interest)	2(a). $60,050.00			
b. Distributions during computation period	2(b). $0.00			
c. Total Adjusted Closing Balance (line 2a + 2b)		2(c).	$60,050.00	$57,500.00
3. Adjusted Opening Balance:				
a. FMV (immediately prior to contribution) (FMV = Principal + Interest + Accrued Interest)	3(a). $53,300.00			
b. Contributions during computation period	3(b). $6,000.00			
c. Total Adjusted Opening Balance (line 3a + 3b)		3(c).	$59,300.00	$59,300.00
4. Subtract line 3c from line 2c (this may be a negative number)		4.	$750.00	-$1,800.00
5. Divide line 4 by line 3c (a quotient to 6 decimal places)		5.	0.012648	0.030354
6. Income (loss) Related to the Current-Year Contribution Being Withdrawn (multiply line 5 by line 1)		6.	$75.89	-$182.12
7. Total amount to be withdrawn (line 1 + 6)		7.	6,075.89	5,817.88

Signature of Custodian/Trustee Date Signature of Accountholder Date

der Date

Additional Discussion – See Reverse Side

ide

IRA #67-W (Current Year) (03/11)

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SEP Contributions,
Continued from page 1

business may establish and fund the SEP-IRA on August 15, 2012 for tax year 2011.

What types of contributions may be made to a SEP-IRA:

1. The employer contribution is the lesser of 25% of compensation up to a maximum of $49,000 for 2011. There is a special calculation for self-employed individuals. The terms used to describe this employer contribution are a "SEP-IRA contribution" or a SEP contribution.
2. The annual IRA contribution which is the lesser of 100% of compensation or the $5,000/$6,000 limit as applicable.
3. Rollover Contributions. These could come from a 401(k) plan, other employer sponsored plan, another SEP-IRA or another traditional IRA, or a SIMPLE-IRA if the two-year rule has been met.
4. Transfer Contributions. These could come from another SEP-IRA, another traditional IRA, or a SIMPLE-IRA if the two-year rule has been met.
5. Recharacterized annual contributions.

The IRS has given no guidance as to when (or how) a SEP-IRA loses its status of being a SEP-IRA. One would think, that a SEP-IRA will always be a SEP-IRA if that is what the individual wants, but the IRS to the best of our knowledge, has never discussed this question. The individual has the right to transfer a SEP-IRA to a traditional IRA at any time or to do a roll over at any time assuming he or she is otherwise eligible.

All of the standard distribution rules that apply to traditional IRAs also apply to SEP-IRAs. This includes the required distribution rules.

A special formula is used to calculate the maximum contribution for a self-employed individual. See publication 590 and 560. For 2011, an individual is able to establish and fund his or her SEP-IRA as long as he or she does so by April 17, 2012 plus tax extensions.

General Discussion

Who is eligible to establish a SEP? Any employer, including a sole proprietor, partnership, or corporation, can establish a SEP. The corporation may either be a for-profit corporation or a nonprofit corporation. A governmental entity may also establish a SEP. When a self-employed individual sponsors a SEP, he or she is considered to be both the employer and an employee.

Why would an employer, including a one-person business, want to have a SEP? There are five excellent reasons for establishing a SEP:

- ♦ The SEP contribution is deductible by the employer, and it is not included in the employee's income for the year.
- ♦ The SEP contributions are not subject to Federal withholding or Federal payroll taxes unless an individual is self-employed.
- ♦ Interest earned on the SEP deposit is sheltered from federal and most state income taxes until withdrawals are made at retirement.
- ♦ Due to the effects of compounding, the SEP funds can grow into a sizable nest egg for retirement.
- ♦ Administrative and legal costs are generally substantially less than would be incurred under a qualified retirement plan.

What employees must an employer cover under the SEP? The employer must cover any individual who is a qualifying employee. Such an employee is one who:

- ♦ Has attained the age of 21 years;
- ♦ Has worked for the employer in at least three of the immediately preceding five years, and
- ♦ Received at least $550 during the calendar year.

  An employer may establish less strict eligibility requirements.

  If an employer fails to cover a person who is eligible, then there is no SEP plan, and the favorable tax benefits will be lost.

Can a person who is age 70½ or older establish or contribute to a SEP-IRA after attaining age 70½? Yes. A self-employed person who is over age 70½, but who still has net earnings from his or her business, is eligible to establish a SEP and make a SEP-IRA contribution. A business that sponsors a SEP-IRA plan is required to make a SEP-IRA contribution for each employee who has met the age and service requirement. This includes employees who are age 70½ or older. It would be unlawful discrimination for a business to fail to make a SEP-IRA contribution just because an employee had attained age 701/2 or older.

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State Tax Levies on IRAs

In the current economic times IRA custodians are being served levies on IRAs. The primary purpose of this article is to discuss the procedures to be used to reported these special distributions for federal income tax purposes.

First State Bank is located in Iowa. It has a customer, John Doe. He is age 43. The State of Iowa recently issued a levy on John Doe's traditional IRA. He has $17,000 in his IRA. The State of Iowa wants the bank to send the entire $17,000 as he owes $22,000 for various taxes. Under Iowa law, the State does have the legal authority to levy on his IRA. First State Bank will wish to discuss this situation with its attorney. The federal income tax laws and rules regarding withholding must be considered. Federal tax law requires the IRA custodian to furnish a withholding notice prior to the distribution. This may be done by furnishing IRS Form W-4P or furnishing a distribution form incorporating Form W-4P. The general rule is - the IRA custodian must withhold 10% of the amount being distributed for federal income tax purposes. The individual, however, has the right to instruct he does not want any withholding or he has the right to have more withheld.

We suggest an IRA custodian furnish the IRA accountholder with a federal income tax withholding notice before remitting the funds to the state department of revenue. Most likely this individual will not instruct to have no withholding. An interesting legal situation will develop if he would instruct to have more withheld (e.g. 50% or 100%). The IRS has never stated how the withholding rules are impacted by a levy. We believe the federal rules would need to be followed.

Federal income tax law indicates that an individual does NOT owe the 10% additional pre-age 59½ tax when the IRS levies on an IRA. He would pay tax (i.e. include in his income) on the amount withdrawn. However, there is no exception for the 10% pre-59½ tax if the State of Iowa levies on his IRA.

How will the 2012 Form 1099-R be prepared for John Doe?

It is assumed there will be withholding of 10% or $1,700. The IRA custodian will prepare the 2012 Form 1099-R showing an IRA distribution of $17,000 in box 1 (gross amount), $17,000 in box 2a (taxable amount), $1,700 in box 4 (withholding) and a reason code 1 in box 7. John will need to include the $17,000 in his income for federal income tax purposes of 2012, pay tax on this amount using whatever marginal income tax rate applies and he will also owe the 10% tax. The $1,700 of withholding would be a credit against his tax liability.

In summary, most state revenue departments will have the authority to levy on a person's IRA to satisfy the state tax liability. Other creditors generally cannot levy on IRAs as most states have laws providing some protection from levies from general creditors. An IRA custodian/ trustee needs to discuss a levy on an IRA with its attorney when the situation arises. ◆

Levies on HSAs

As with IRAs, HSA custodians are starting to be served with levies on HSAs. In some cases the creditor will be the state department of revenue. However, other general creditors may also be originating the levies. Quite a few states have not added HSAs to their property lists of the property exempt from creditors and so creditors are able to obtain HSA funds to satisfy debts.

The primary purpose of this article is to discuss the procedures to be used to report these special levy distributions for federal income tax purposes.

First State Bank is located in Iowa. It has a customer, Mary Doe. Mary Doe is age 39. The State of Iowa recently issued a levy on Mary Doe's HSA. For discussion purposes, we assume the amount in her HSA is $11,000. The State wants the bank to send the entire $11,000 as she owes the State of Iowa $16,000 for various taxes. Under Iowa law, the State Department of Revenue does have the legal authority to levy on her HSA.

There are no federal income tax withholding rules for HSA distributions. The entire $11,000 will need to be remitted to Iowa Revenue.

An HSA owner owes a 20% tax when he or she takes a distribution not used to pay a qualified medical expense. A distribution used to pay a levy is not one used to pay a qualified medical expense. The 20% tax

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What percentage of an inherited IRA must a beneficiary take as the RMD each year?

A beneficiary's RMD is dependent on his or her age. The RMD rules do allow a beneficiary to stretch-out distributions over his or her life expectancy. The older a beneficiary is results in the beneficiary having to take a larger RMD on a percentage basis.

It is possible to express the distribution period divisor (i.e. the life expectancy factor) as a percentage. See the chart on page 7.

Remember that for a nonspouse beneficiary, an initial RMD divisor is determined the year after the year the IRA accountholder died. This initial divisor is reduced by one for each subsequent year. For example, John Doe died in 2011 at age 67. His primary beneficiary is his daughter, Ann, age 42, in 2012. Her initial divisor from the Single Life table is 41.7. Her annual RMD percentages would be:

Year	Age	Divisor	Percentage
2012	42	41.7	2.398
2013	43	40.7	2.457
2014	44	39.7	2.519
2015	45	38.7	2.584
2016	46	37.7	2.653
2017	47	36.7	2.725
2018	48	35.7	2.801
2019	49	34.7	2.882

On a percentage basis, her RMD for each year she is 40's is less than 3% of the preceding year's fair market value. If the earnings of the account are more than the indicated percentage, the balance of this inherited would increase (and not decrease) .

The chart immediately below shows that on an annual basis the percentage to be withdrawn by an inheriting IRA beneficiary under age 60 is quite modest (less than 4% per year.) After age 60 the annual percentage does start to increase and after age 70 more so.

Age 20-29	1.59%	to	1.84%
Age 30-39	1.88%	to	2.24%
Age 40-49	2.29%	to	2.85%
Age 50-59	2.92%	to	3.83%
Age 60-69	3.97%	to	5.62%
Age 70-79	5.89%	to	9.26%
Age 80-89	9.80%	to	16.95%
Age 90-99	18.18%	to	32.26%

The Percentage Method— Single Life-Expectancy Table

For Use By Beneficiaries

Ages 0-55

Age	Distribution Period	%	Age	Distribution Period	%
0	82.4	1.2136	28	55.3	1.8083
1	81.6	1.2255	29	54.3	1.8416
2	80.6	1.2407	30	53.3	1.8762
3	79.7	1.2547	31	52.4	1.9084
4	78.7	1.2707	32	51.4	1.9455
5	77.7	1.2870	33	50.4	1.9841
6	76.7	1.3038	34	49.4	2.0243
7	75.8	1.3193	35	48.5	2.0619
8	74.8	1.3369	36	45.7	2.1053
9	73.8	1.3550	37	46.5	2.1505
10	72.8	1.3736	38	45.6	2.1930
11	71.8	1.3928	39	44.6	2.2422
12	70.8	1.4124	40	43.6	2.2936
13	69.9	1.4306	41	42.7	2.3419
14	68.9	1.4514	42	41.7	2.3981
15	67.9	1.4728	43	40.7	2.4570
16	66.9	1.4748	44	39.8	2.5316
17	66.0	1.5152	45	38.8	2.5773
18	65.0	1.5385	46	37.9	2.6385
19	64.0	1.5625	47	37.0	2.7027
20	63.0	1.5873	48	36.0	2.7778
21	62.1	1.6103	49	35.1	2.8490
22	61.1	1.6367	50	34.2	2.9224
23	60.1	1.6639	51	33.3	3.0030
24	59.1	1.6920	52	32.3	3.0960
25	58.2	1.7182	53	31.4	3.1847
26	57.2	1.7483	54	30.5	3.2787
27	56.2	1.7794	55	29.6	3.3784

The Percentage Method— Single Life-Expectancy Table

For Use By Beneficiaries

Ages 56-111+

Age	Distribution Period	%	Age	Distribution Period	%
56	28.7	3.4843	84	8.1	12.3457
57	27.9	3.5842	85	7.6	13.1579
58	27.0	3.7037	86	7.1	14.0845
59	26.1	3.8314	87	6.7	14.9254
60	25.2	3.9683	88	6.3	15.8730
61	24.4	4.0984	89	5.9	16.9492
62	23.5	4.2553	90	5.5	18.1818
63	22.7	4.4053	91	5.2	19.2308
64	21.8	4.5872	92	4.9	20.4082
65	21.0	4.7619	93	4.6	21.7391
66	20.2	4.9505	94	4.3	23.2558
67	19.4	5.1546	95	4.1	24.3902
68	18.6	5.3763	96	3.8	26.3158
69	17.8	5.6180	97	3.6	27.7778
70	17.0	5.8824	98	3.4	29.4118
71	16.3	6.1350	99	3.1	32.2581
72	15.5	6.4516	100	2.9	34.4828
73	14.8	6.7568	101	2.7	37.0370
74	14.1	7.0922	102	2.5	40.0000
75	13.4	7.4627	103	2.3	43.4783
76	12.7	7.8740	104	2.1	47.6190
77	12.1	8.2645	105	1.9	52.6316
78	11.4	8.7719	106	1.7	58.8235
79	10.8	9.2593	107	1.5	66.6667
80	10.2	9.8039	108	1.4	71.4286
81	9.7	10.3093	109	1.2	83.3333
82	9.1	10.9890	110	1.1	90.9091
83	8.6	11.6279	111 +	1.0	100.0000

HSA Levies,
Continued from page 5

is not owed when an individual is disabled or is age 65 or over.

How will the 2012 Form 1099-SA be prepared to report a levy distribution?

The HSA custodian will prepare a 2012 Form 1099-SA showing an HSA distribution of $11,000 in box 1 (gross amount), box 2 would be left blank and box 3 would have a reason code 1 (a normal HSA distribution).

Mary will need to include the $11,000 in her income for federal income tax purposes for 2012, pay tax on this amount using whatever marginal income tax rate applies and she will also owe the 20% tax. Mary will need to complete Form 8889.

We again expect that most state revenue departments will have the legal right to levy on HSAs for unpaid state taxes, but this is an issue each bank must discuss with its attorney.

HSA custodians will also be having to process levies from various creditors on HSAs. Each institution should consult with its attorney so that it knows how it will respond to the levy. ◆

HSA Funds Cannot be Transferred at Will to a Spouse

As with IRAs, current law does not authorize funds to be transferred from one spouse's HSA to the other spouse's IRA unless there was a divorce or a death.

Summary. A financial institution needs to have procedures in place to identify and flag the above situation. You will want your HSA personnel to be aware that HSA funds cannot be transferred or rolled over from one spouse's HSA to the other spouse's HSA unless there is a death or divorce. ◆

SEPs,
Continued from page 4

What technical requirements must a plan meet to be a SEP? A SEP requires a written plan document that meets the requirements of Internal Revenue Code section 408(k). This plan document requirement is normally met by using IRS Form 5305-SEP or an approved SEP prototype document. A SEP requires each participant to establish an approved IRA. Employer contributions to a SEP must be made under a definite written formula specifying the method for allocating contributions to each participant (a percent of compensation).

What is the cost to the employer? The cost depends on the degree to which the employer makes contributions. SEPs have relatively few governmental reporting requirements, which makes a SEP less costly to administer.

Must the employer make a contribution each year? The employer has total discretion whether or not to make a contribution each year under a SEP. The employer need not make any contribution. ◆

IRA Funds Cannot be Transferred at Will to a Spouse

When two persons who are married each have an IRA, it is not possible for one spouse to simply transfer funds from their IRA to the IRA of the other spouse, or for one spouse to withdraw funds from the other's IRA and then roll over the funds into their own IRA. The only situations under which IRA funds may be transferred from one spouse to another are through divorce, or because of the death of one spouse. ◆

Must an IRA Custodian Furnish the 2012 1099-R Upon Request?

Yes. An institution may encounter a situation where the funds in an IRA are totally distributed because of the death of the accountholder, in February or March of 2012, and the beneficiary requests that the 2012 1099-R be prepared right away. It is perfectly permissible for the beneficiary to make this request. The beneficiary will need to be aware, though, that he/she will be receiving this same information by January 31 of the following year. The financial institution will not send this early-prepared 1099R to the IRS, it will be for the individual's information, only. ◆